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December 5, 1994

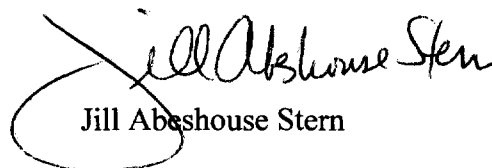
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Dear Mr. Caton:

On behalf of CTA Commercial Systems, Inc., I am transmitting herewith an erratum to its November 16, 1994 Petition for Rulemaking correcting an inadvertent error on the first page of the petition. Specifically, the erratum substitutes the word "shared" for the word "co-primary." The revised page one should be substituted in lieu of the page previously submitted. A conformed copy of the petition is provided for the Commission's convenience.

Should there be any questions concerning this matter, kindly communicate with the undersigned.

Sincerely,


Jill Abeshouse Stern

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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DEC 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
PETITION FOR RULEMAKING) File No. _____
)
To Amend the Table of)
Frequency Allocations,)
47 C.F. R. § 2.106)

PETITION FOR RULEMAKING

CTA Commercial Systems, Inc. ("CTA"), by its attorneys and pursuant to Commission Rule 1.401, respectfully requests that the Commission amend the Table of Frequency Allocations, 47 C.F.R. § 2.106, to permit shared government/non-government use of the 312-315 MHz and 387-390 MHz bands by non-geostationary satellite systems in the Non-Voice, Non-Geostationary Mobile Satellite Service ("NVNG MSS").^{1/} In support of this petition, the following is shown.

^{1/} The text of the proposed rule revision is attached in Exhibit 1.

I. THE PROPOSED REALLOCATION IS CONSISTENT
WITH THE INTERNATIONAL RADIO REGULATIONS

The proposed reallocation of spectrum is consistent with the International Radio Regulations. At the 1992 World Administrative Radio Conferences (WARC-92), a new footnote 641A was added to the International Radio Regulations. Footnote 641A provides:

The bands 312-315 MHz (Earth-to-Space) and 387-390 MHz (Space-to-Earth) in the mobile-satellite may also be used by non-geostationary-satellite systems. Such use is subject to the application of the coordination and notification procedures set forth in Resolution COM 5/8.

Final Acts of the World Administrative Radio Conferences

(WARC-92) at 16 (attached as Exhibit 2).

New footnote 641A has not been adopted in the United States. In the United States, the International Table of Allocations currently authorizes secondary mobile-satellite service operations in the 235-322 MHz and 335.4-399.9 MHz bands. See § 2.106, Footnote 641. However, use of the 235-322 MHz and 335.4-399.9 MHz bands in the United States is now limited to military operations: fixed, mobile and mobile-satellite. *Id.* at footnotes G27, G100.

It is CTA's understanding that the international allocation for non-geostationary mobile satellite systems was adopted at WARC-92 to accommodate proposals to operate a Russian satellite

system in the 312-315 and 387-390 MHz bands. In 1992, there was U.S. government opposition to use of the subject bands by private systems in the United States. As discussed below, it appears that the U.S. government, including the Department of Defense, may now be amenable to considering reallocation of this spectrum for shared use.

II. REALLOCATION WOULD BE CONSISTENT WITH THE OBJECTIVES OF THE 1993 OMNIBUS BUDGET RECONCILIATION ACT

Reallocation of the 312-315 and 387-390 MHz bands for shared government/non-government use would further the goals espoused in Section 6001 of the Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312, 379-387 (1993) (the "Act"). The Act requires the Secretary of Commerce to identify 200 MHz of spectrum, below 5 GHz, currently allocated for use by Federal Government agencies to be reallocated for use by the private sector. Id. at 380. While the Act requires reallocation for exclusive non-Federal use, it also permits "mixed uses," that is, shared government/non-government use of spectrum, to be counted toward the minimum spectrum reallocation that the Act requires. Id. at 380-381. In the Commission's Report to the Secretary of Commerce, with respect to the February 10, 1994 Preliminary Spectrum

Reallocation Report, the frequencies at 225-400 MHz were identified as potential candidates for reallocation. See Report from the Federal Communications Commission at paras. 56-58. The Report indicates that these bands have been made available outside the United States for non-military purposes, and that "discussions are underway between the FCC and NTIA on use of the 312-315 and 387-390 MHz bands for MSS." *Id.* at para. 57. See also Notice of Inquiry, IC Docket No. 94-91, 59 Fed. Reg. 25873 (May 18, 1994). The Commission concludes that "prompt action to allow non-Government access to this band will further our efforts to relieve congestion in the VHF/UHF bands." *Id.* at para. 58.

III. REALLOCATION WOULD SERVE THE PUBLIC INTEREST BY FOSTERING NEW COMMUNICATIONS SERVICES AND OPPORTUNITIES

Congress' goal in mandating spectrum reallocation by the Federal Government was to help stimulate the development of new spectrum-dependent technologies. See House Conf. Rep. No. 102-214 at 477, reprinted in 1993 U.S. Code Congressional and Administrative News at 1166. The Commission has also acknowledged that the reallocation will benefit the public by "providing for the introduction of new services and the enhancement of existing services." Notice of Proposed Rulemaking, ET Docket No. 94-32,

FCC 94-272, released November 8, 1994. "These new and enhanced services will create jobs, foster economic growth, and improve access to communications by industry and the American public. Id. at para.1.

The proposed reallocation would further opportunities for innovative technologies, such as non-geostationary mobile satellite systems. The Commission has opened a new filing window for applications in the Non-Voice Non-Geostationary Mobile Satellite Service ("NVNG MSS"). At the time of this filing, multiple

applications were expected to be filed in the newly-opened NVNG MSS window, including CTA's. See FCC Public Notice, Report No. DS-1459, DA-1011 (September 16, 1994).²⁴ The proposed reallocation would provide additional and much needed spectrum for this innovative service.

The frequencies are particularly suitable for asset monitoring and tracking functions that would be valuable for military purposes. These and other mobile services can be provided by private companies consistent with government operations in the bands.

CONCLUSION

For the foregoing reasons, CTA requests that the Commission initiate a rulemaking proceeding to amend the Table of Frequency Allocations to permit shared government/non-government use in

²⁴In its application, CTA requested a waiver to permit use of the subject frequencies as a non-conforming use in the United States. CTA understands that the frequencies can be used outside the United States, in any event, consistent with International Radio Regulations.

the 312-315 MHz and 387-390 MHz frequency bands by non-geostationary satellite systems.

Respectfully submitted,

CTA COMMERCIAL SYSTEMS, INC.

By: _____
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Trowbridge
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(202) 663-8000

Its Attorneys

November 16, 1994

EXHIBIT 1

PROPOSED RULE CHANGE

Commission Rule 2.106, 47 CFR § 2.106, is hereby amended as follows:

Add new footnote 641A

The bands 312 - 315 MHz (Earth-to-space) and 387 - 390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to the application of the coordination and notification procedures set forth in Resolution COM5/8.



621 623 626 629	MARITIME MOBILE. Radiolocation 627	619 624 625 626 630	Aeronautical Mobile. Fixed. Land Mobile. Radiolocation 627	Aeronautical Mobile. Fixed. Land Mobile. Radiolocation 627	Private Land Mobile (90). Personal Radio Services (95).
	627A		US210 US220 US274 US317 G2	627 US210 US220 US274 US317	
	220-225 AMATEUR. FIXED. MOBILE. Radiolocation 627		220-222 LAND MOBILE Radiolocation 627 US243, G2	220-222 LAND MOBILE 627, US 243	PRIVATE LAND MOBILE (90)
223-230 BROADCASTING. Fixed. Mobile.		223-230 FIXED.			
622 626 629 631 632 633 634 635.	225-225 FIXED. MOBILE.	636 637	222-225 Radiolocation 627 US 243, G2	222-225 AMATEUR 627, US 243	AMATEUR (97)
230-235 FIXED. MOBILE.		230-235 FIXED. MOBILE. AERONAUTICAL RADIONAVIGATION. 637	225.0-328.6 FIXED. MOBILE.	225.0-328.6	
629 632 633 634 635 636 639			Mobile-Satellite (Earth-to-space) 641A 501 502 642 644 G27 G100	Mobile-Satellite (Earth-to-space) 641A 501 502 642 644.	
236-267	FIXED. MOBILE. 901 902 635 640 641 642				
267-272	FIXED. MOBILE. Space Operation (space- to-Earth). 641 643				
272-273					

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	SPACE OPERATION (space-to-Earth) FIXED. MOBILE F. 641					
273-322	Mobile Satellite (Earth-to-space) FIXED. MOBILE. 641	641A				
322.6-328.6	FIXED. MOBILE. RADIO ASTRONOMY. 644					
328.6-335.4	AERONAUTICAL RADIONAVIGATION 645 645A		328.6-335.4 AERONAUTICAL RADIONAVIGATION. 645	328.6-335.4 AERONAUTICAL RADIONAVIGATION. 645		
335.4-388.9	Mobile Satellite (space-to-Earth) FIXED. MOBILE. 641	641A	335.4-388.9 FIXED. MOBILE. G27 G100	335.4-388.9 Mobile Satellite (space-to-Earth) 641A		
388.9-400.05 RADIONAVIGATION-SATELLITE. 608 645B			388.9-400.05 RADIONAVIGATION- SATELLITE. MOBILE-SATELLITE (Earth-to-space) US319 US328. 645B	388.9-400.05 RADIONAVIGATION- SATELLITE. MOBILE-SATELLITE (Earth-to-space) US319 US328. 645B		
400.05-400.15	STANDARD FREQUENCY AND TIME SIGNAL- SATELLITE. (400.1 MHz)		400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL- SATELLITE.	400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL- SATELLITE.		400.1 MHz Standard frequency

EXHIBIT 2



**Final Acts
of the World
Administrative
Radio Conference
(WARC-92)**

Málaga-Torremolinos, 1992

MOD

**MHz
273 - 322**

Allocation to Services		
Region 1	Region 2	Region 3
273 - 312	FIXED MOBILE 641	
312 - 315	FIXED MOBILE Mobile-Satellite (Earth-to-space) 641 641A	
315 - 322	FIXED MOBILE 641	

MOD

**MHz
335.4 - 399.9**

Allocation to Services		
Region 1	Region 2	Region 3
335.4 - 387	FIXED MOBILE 641	
387 - 390	FIXED MOBILE Mobile-Satellite (space-to-Earth) 641 641A	
390 - 399.9	FIXED MOBILE 641	

NOQ

641

ADD

641A

The bands 312 - 315 MHz (Earth-to-space) and 387 - 390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to the application of the coordination and notification procedures set forth in Resolution COM5/8.